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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 CHRISTOPHER HEIM,

12 Plaintiff,

13 vs.

14 DOE, et al.,

15 Defendants.  
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1:20-cv-00391-AWI-GSA-PC

**ORDER DENYING MOTION FOR LEAVE  
TO AMEND AS MOOT  
(ECF No. 25.)**

24 **I. BACKGROUND**

25 Christopher Heim (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis*  
26 with this civil rights action pursuant to 42 U.S.C. § 1983. On March 11, 2020, Plaintiff filed the  
27 Complaint commencing this action. (ECF No. 1.) On May 14, 2020, Plaintiff filed the First  
28 Amended Complaint as a matter of course. (ECF No. 13.) On January 4, 2021, Plaintiff filed

1 the Second Amended Complaint with leave of court. (ECF No. 20.) On March 30, 2021, the  
2 court dismissed the Second Amended Complaint for failure to state a claim, with leave to amend.  
3 (ECF No. 21.) On May 3, 2021, Plaintiff filed the Third Amended Complaint. (ECF No. 22.)

4 On May 6, 2021, Plaintiff filed a motion for leave to amend the complaint. (ECF No.  
5 25.)

## 6 **II. LEAVE TO AMEND – RULE 15(a)**

7 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's  
8 pleading once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is  
9 one to which a responsive pleading is required, 21 days after service of a responsive pleading or  
10 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. Fed. R. Civ.  
11 P. 15(a)(1). Otherwise, a party may amend its pleading only with the opposing party's written  
12 consent or the court's leave, and the court should freely give leave when justice so requires. Fed.  
13 R. Civ. P. 15(a)(2). Here, Plaintiff has previously amended the complaint and no defendants  
14 have appeared in the case. Therefore, Plaintiff requires leave of court to file an amended  
15 complaint.

16 "Rule 15(a) is very liberal and leave to amend 'shall be freely given when justice so  
17 requires.'" AmerisourceBergen Corp. v. Dialysis West, Inc., 445 F.3d 1132, 1136 (9th Cir. 2006)  
18 (quoting Fed. R. Civ. P. 15(a)). However, courts "need not grant leave to amend where the  
19 amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue  
20 delay in the litigation; or (4) is futile." Id. The factor of "[u]ndue delay by itself . . . is  
21 insufficient to justify denying a motion to amend." Owens v. Kaiser Foundation Health Plan,  
22 Inc., 244 F.3d 708, 712, 713 (9th Cir. 2001) (quoting Bowles v. Reade, 198 F.3d 752, 757-58  
23 (9th Cir. 1999)).

## 24 **III. ANALYSIS**

25 Plaintiff requests leave to amend the complaint to reflect the fact that he determined the  
26 defendant's name is Rodriguez. Plaintiff's motion is moot because on May 3, 2021, he filed the  
27 Third Amended Complaint which lists C/O Rodriguez as a defendant. Therefore, the request is  
28 moot.

1 **IV. CONCLUSION**

2 As discussed above, Plaintiff's motion for leave to amend the complaint to add defendant  
3 Rodriguez's name to the complaint is moot.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Plaintiff's motion for leave to amend the complaint, filed on May 24, 2021, is  
6 denied as moot; and  
7 2. The Third Amended Complaint, filed on May 3, 2021, shall be screened in due  
8 course.

9  
10 IT IS SO ORDERED.

11 Dated: May 11, 2021

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE